

**GUIDE TO ZONING ARTICLES  
PLANNING BOARD PUBLIC HEARING  
September 17, 2019**

**Article 1: Amend Zoning By-Law – Highway Commercial 1 Zoning District**

Article 1 Information: The Council of Economic Advisors, which was created by the Select Board to evaluate Town-wide economic conditions and makes recommendations to promote and encourage new and existing businesses, undertook a review of all Industrial Zoning Districts in 2012, and, after focusing its efforts on three different areas along Route 128, held numerous public meetings with residents, neighbors, public officials, businesses and landowners in 2014 about potential zoning initiatives. As requested during those discussions, the CEA obtained a build-out analysis, a traffic impact report based on that analysis, and elevation drawings to better understand the impact of any proposed development. After examining the results of those reports, the CEA in 2017 reached out again to the various stakeholder groups and presented its preliminary recommendations to upgrade the zoning adjacent to Route 128 in order to make these areas more economically competitive. The Planning Board, having reviewed the proposals from the CEA, determined to move forward on only one area at this time; the area circumscribed by Route 128, Highland Avenue, Gould Street, and the railroad track.

The proposed use and dimensional changes to this area, to be rezoned Highway Commercial 1 (“HC1”), are detailed below.

The amendments to Section 3.2 detail the uses allowed by right and those by special permit. In addition, by listing the uses rather than using the current somewhat antiquated table of uses, the uses can be clarified and brought up to date. Key changes to the use table include allowing greater retail by right for 10,000 sq. ft. or less (from 5750 sq. ft.) and by special permit for more than 10,000 sq. ft. and less than 25,000 sq. ft. (more than 5700 sq. ft.); allowing grocery stores of up to 25,000 square feet by special permit; clarifying medical services allowed by right and by special permit (as was done in the Needham Crossing zoning); standardizing the medical laboratory and research and development defined uses; allowing by right more than one use and more than one building on a lot; changing theaters, bowling alleys, skating rinks, billiard rooms and similar commercial amusement or entertainment places from by right to special permit; deleting indoor movie theaters from allowed uses; precluding single family detached dwellings from allowed uses; and precluding certain industrial uses in the district including, inter alia, commercial garages, contractor’s yards, lumber or fuel establishments, Medical Clinics, and previously allowed manufacturing and industrial services. The purpose of the use changes is: (1) to insure that uses allowed by right or by special permit will maximize the economic value of redevelopment to the Town; and (2) to subject certain uses presently allowed by right to the special permit process so that they may be properly vetted by the permit granting authority as to impacts and mitigation.

The amendments to Section 4 would create the dimensional requirements for the new Highway Commercial 1 zone. The proposal under new Section 4.11 would change the front setback to 5 feet unless the building height exceeds 42 feet, in which case the front setback increases to 15 feet, or the building sits on Highland Avenue, Gould Street and/or the layout of Route 95/128, where a 20 foot landscaped vegetative buffer is proposed. (Current front setback is 20 feet except along Gould and Highland where a 50 foot building setback is imposed.) The side setback would change to 10 feet unless the building height exceeds 42 feet, in which case the side setback is increased to 20 feet for all side setbacks not abutting the MBTA right-of-way. (The current side setback is 20 feet.) The rear setback would change to 20 feet when building height exceeds 42 feet for those rear setbacks not abutting the MBTA right-of-way. (The current rear setback is 10 feet.) The maximum height is increased to 70 feet except that a building within 150 feet of Highland Avenue and 200 feet of Gould Street is limited to a height of 42 feet or 48 feet if

under a pitched roof or recessed from the face of the building in a manner approved by the Planning Board. The 42 foot height or four story profile is consistent with the height allowed in the Elder Services District across Gould Street from the new HC1. By special permit, the height may increase up to 84 feet, except within 150 feet of Highland Avenue and 200 feet of Gould Street, which, given the topography of these lots (they pitch down near the highway), appears as four stories along the street fronts of Gould Street and Highland Avenue. (The current zoning allows only 30 feet or two stories.) For informational purposes, the required building setbacks and allowed envelopes (including setbacks) for additional height above 42 feet are shown as Figure 1 for the as-of-right condition and as Figure 2 for the special permit condition in the zoning article and are also included as Exhibit 1 and Exhibit 2 respectively at the end of this handout.

The new zoning creates a maximum lot coverage requirement of 65% and an open space requirement of a minimum of 20%. (The current zoning contains no such requirements.) Changes are also proposed to the maximum floor area ratio ("FAR"); a maximum FAR by right would be 1.00; the FAR may be increased up to 1.75 by special permit provided certain findings are made. The amendment clearly sets out the specific factors which will allow the exercise of the Board's special permit granting authority. The proposed zoning also sets out the maximum uninterrupted façade length that is allowed—200'. (The current zoning allows an FAR of only 0.5 and only in very limited special circumstances 0.65-0.75.)

Finally, the new zoning restricts the bulk, height and location of the parking garage, even if it is for an as-of-right development; if the bulk, height and/or location are not within the envelope allowed by right, the parking structure requires the issuance of a special permit by the Planning Board. The bulk, height and location requirements of an as-of-right parking garage are shown on Figure 3 in the zoning article and are also included as Exhibit 3 at the end of this handout.

Because the CEA has concluded that the future development of this critical commercial area along Route 128 depends on Needham's ability to be responsive to the requirements of new or proposed uses or construction, it recommended the adoption of Section 4.11.3 which tracks the language from the New England Business Center district zoning adopted in 2011. Successful office parks flourish due to the flexibility of their zoning provisions. This amendment will impart greater flexibility in the Zoning By-Law by allowing the Planning Board to relax dimensional requirements up to a maximum of 25% except with regard to height, by special permit but only after making very specific findings as to the propriety of the waivers as to a particular project, use and location.

Based on the build-out analysis, traffic report, dimensional analysis, consultant findings and information, and meeting testimony, the CEA and Planning Board confirmed that certain dimensional requirements, including front setback, height, floor area ratio, and side setbacks, and use requirements were constraining development. The current zoning effectively precludes additional development. As the CEA's consultant concluded, realistic development expansion potential under the current zoning is essentially zero, and, given the properties' regionally prime commercial location along Route 128, they are significantly underperforming economically, to the detriment of the Town. With rezoning, in time, this area should attract significant high value redevelopment, which will be overseen by the Planning Board under its site plan review and special permit obligations.

## **Article 2: Amend Zoning By-Law – Map Change to Highway Commercial 1**

Article Information: Article 2 describes the geographical area proposed to be placed in the new Highway Commercial 1 zoning district. The affected area is generally bounded on the north by the Massachusetts Bay Transit Authority (M.B.T.A.) commuter railroad right-of-way, on the east by the Circumferential Highway, known as Route 128/95, on the south by Highland Avenue and on the west by Gould Street. The subject land is currently located in the Industrial-1 zoning district. A locus map showing the boundary of the Highway Commercial 1 zoning district is attached at the end of this handout as Exhibit 4.

### **Article 3: Amend Zoning By-Law – Accessory Dwelling Unit**

Article Information: Article 3 establishes a Special Permit process to enable the Board of Appeals to permit accessory dwelling units (ADUs) in single-family homes for occupancy by the Owner; Family members related to the Owner by blood, adoption or marriage (spouse, parent, sibling, child, or a spouse of such persons); and Caregivers of Family members who look after an elderly, chronically ill or disabled Owner who needs assistance with activities of daily living or a Family member who needs such assistance, subject to specified standards and procedures. It is also the intent of this zoning to assure that the single-family character of a neighborhood will be maintained and that the accessory unit remains subordinate to the principal use of the living quarters. ADUs will be allowed in all zoning districts with the exception of the Chestnut Street Business District, Center Business District, Highway Commercial 1, Mixed-Use 128 District, Highland Commercial 128 District, and New England Business Center District. In these zoning districts single-family homes are not currently permitted.

Under Article 3, the accessory dwelling unit (ADU) is defined as an apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. The ADU must be subordinate in size to the principal dwelling unit on a lot, and constructed to maintain the appearance and essential character of the single-family dwelling.

To accomplish this, the by-law restricts size, occupancy, and exterior conditions. In regards to size, the ADU is limited to one-bedroom and 850 square feet with no more than one ADU per lot. Additionally, the ADU must be located in the primary structure, not in an accessory building.

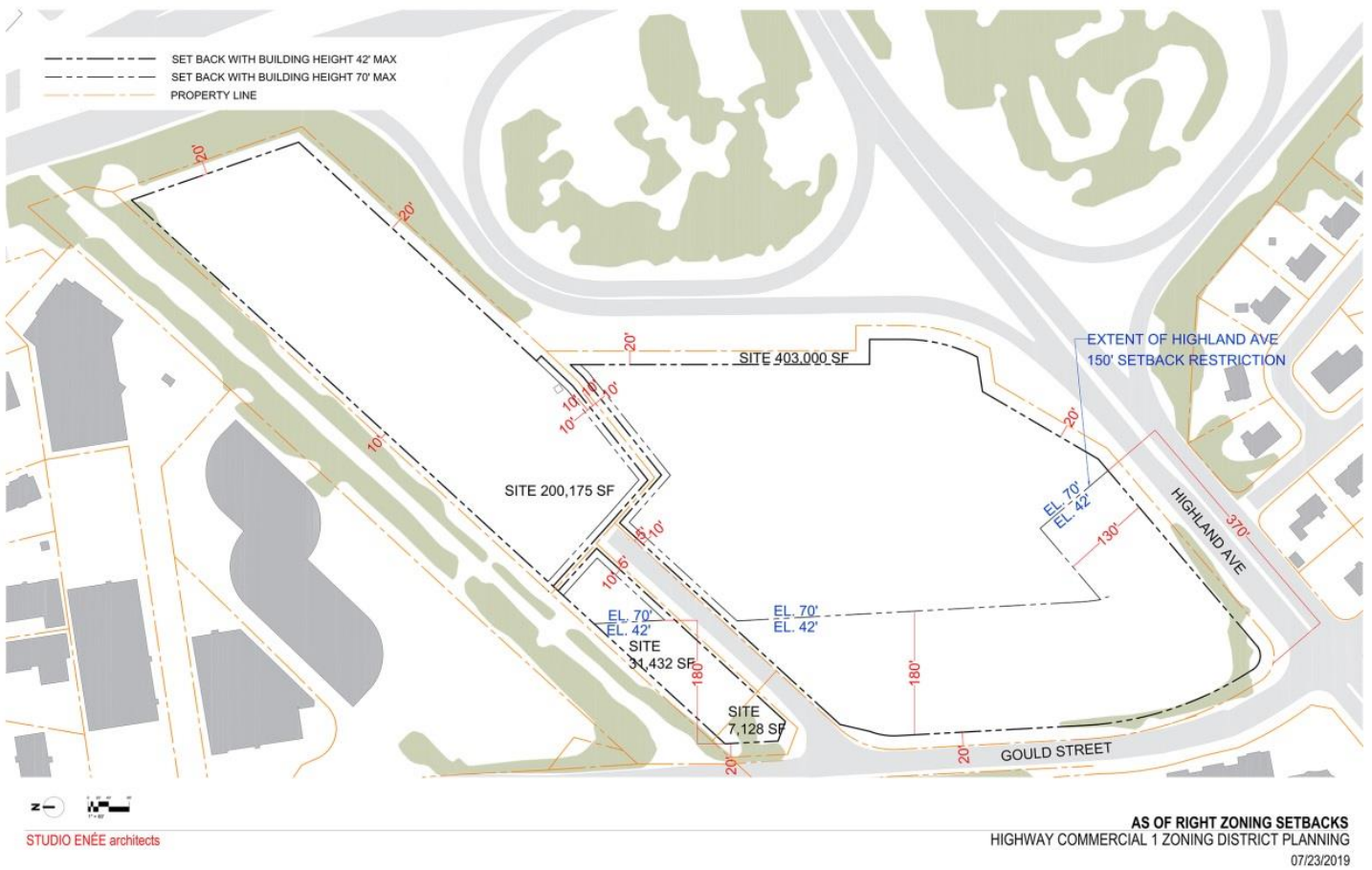
In regard to occupancy, at least one of the units must be Owner-occupied; and occupancy of the unit that is not Owner-occupied is limited to a member of the Owner's Family or a Caregiver and such person's Family; provided that occupancy of the principal unit and ADU combined includes no more than five persons who are not Family of the Owner. Temporary absence of an Owner of a property containing an accessory dwelling unit is permitted for a period of up to nine months if written notice is made to the Building Commissioner on a form prescribed by him within 60 days of the commencement of the absence.

With respect to exterior appearance, the by-law requires that exterior entrances and access ways do not detract from the single-family appearance of the dwelling to the extent possible. Where there are two or more existing entrances on the front façade of a dwelling and modifications are made to any entrance, the result must be that one appears to be the principal entrance and the other appears to be secondary. Moreover, all stairways must be enclosed within the exterior walls of the structure. An interior doorway is also required for access between each unit for purposes of emergency response. There must also be sufficient off-street parking, defined as a minimum of one space per unit.

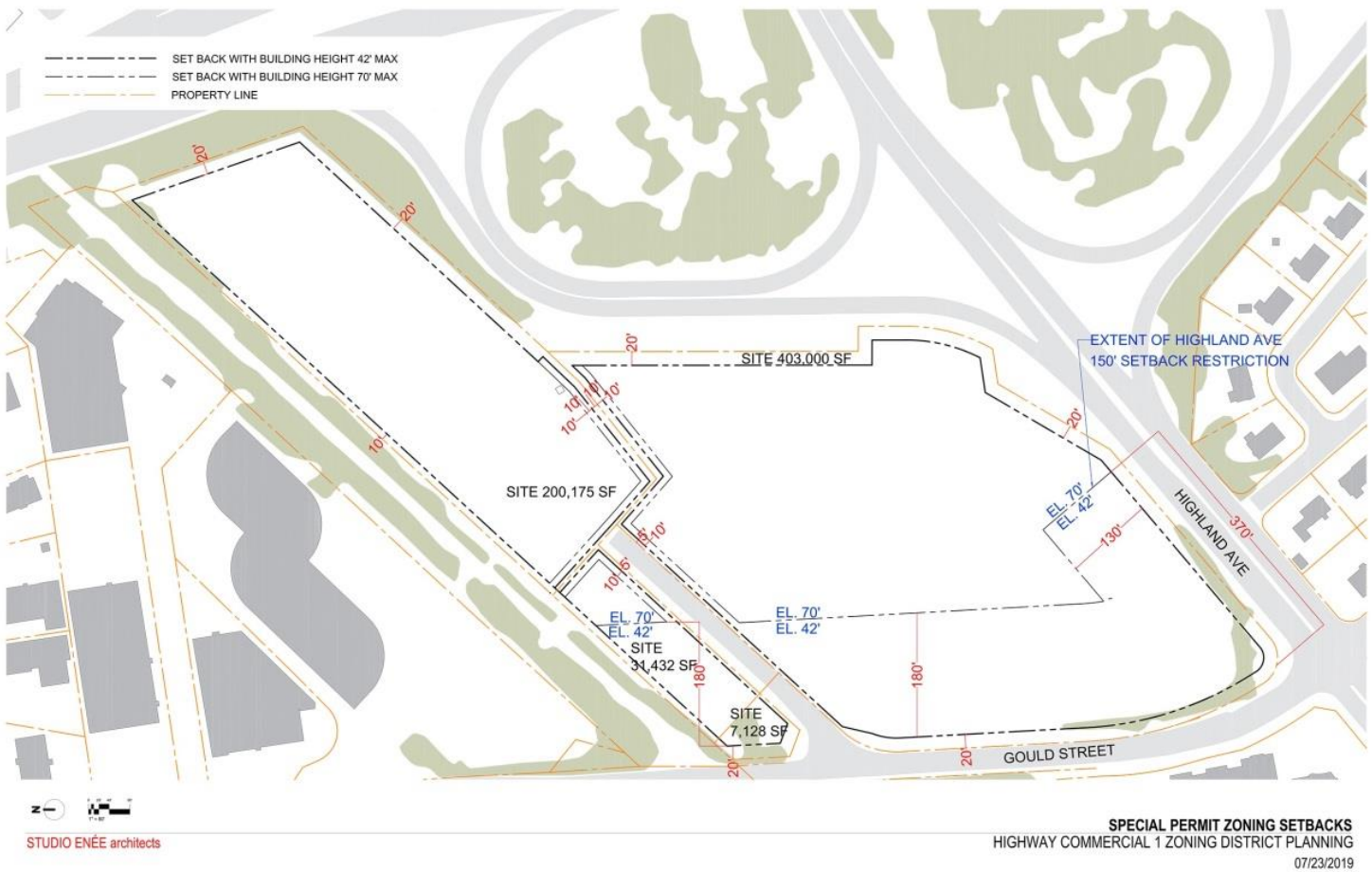
Applications to create an ADU must be submitted to the Building Commissioner with floor plans and a certified site plan. Beyond the Special Permit from the Board of Appeals, building and occupancy permits are required from the Building Commissioner. All units must be in compliance with Board of Health and State Building Code regulations.

The occupancy permit will be provided for a three-year period after which succeeding three-year periods will be allowed based on continued compliance with zoning requirements. The occupancy permits will not be transferable upon a change of ownership or occupancy. In the case of violations of the terms of the Special Permit or the expiration of the lawful use of the ADU, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the components that create a separate dwelling unit such as living, sleeping, cooking and eating.

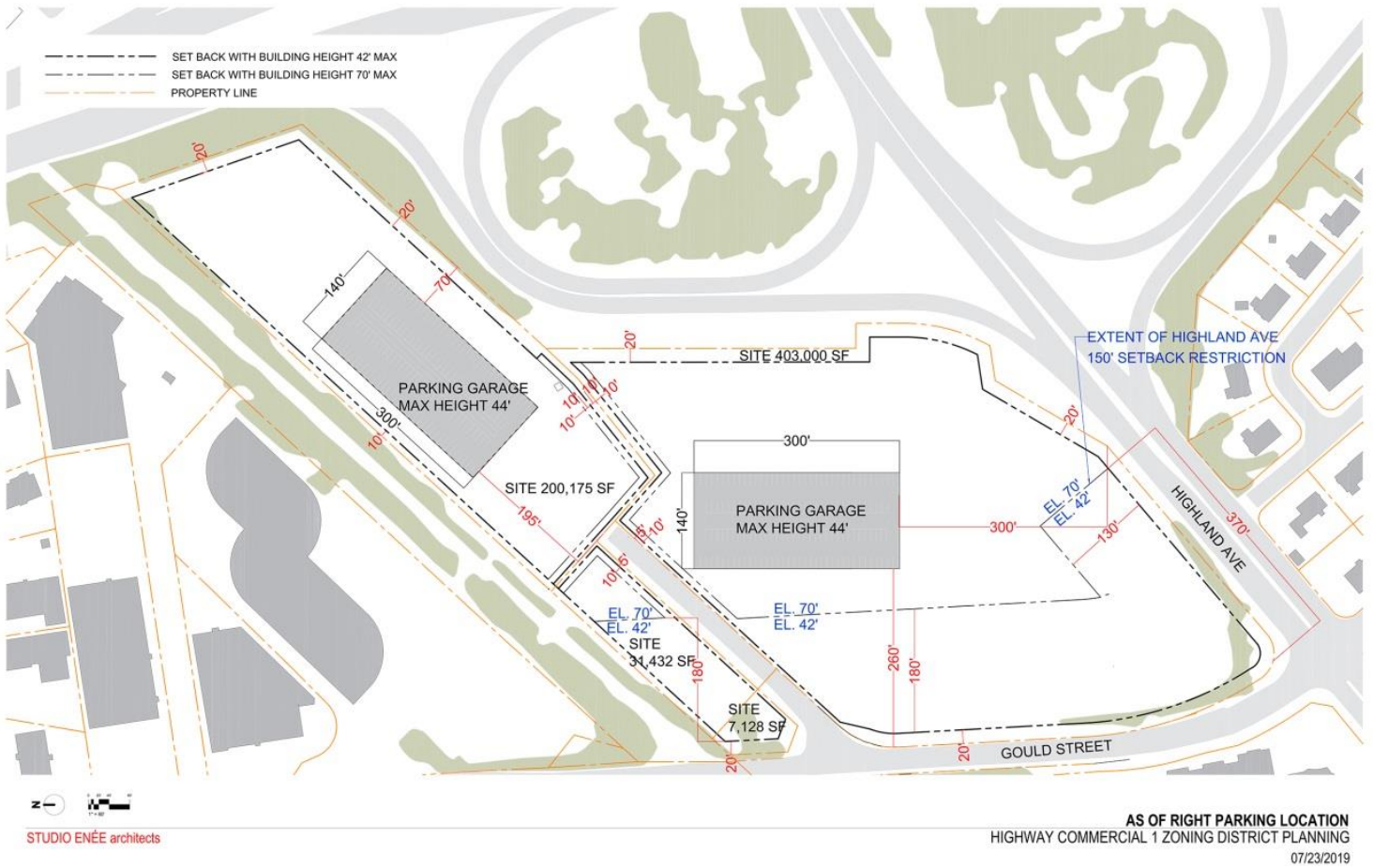
## Exhibit 1



## Exhibit 2



### Exhibit 3





## Exhibit 4

